

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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WISCONSIN MASONS HEALTH CARE FUND,  
WISCONSIN MASONS PENSION FUND,  
WISCONSIN MASONS APPRENTICESHIP AND  
TRAINING FUND,  
WISCONSIN MASONS IPF FUND, WISCONSIN  
MASONS 401(K) PLAN, GARY BURNS,  
BRICKLAYERS AND TROWEL TRADES  
INTERNATIONAL PENSION FUND,  
INTERNATIONAL MASONRY INSTITUTE,  
BUILDING TRADES UNITED PENSION FUND,  
SCOTT REDMAN, BRICKLAYERS AND ALLIED  
CRAFTWORKERS DISTRICT COUNCIL OF  
WISCONSIN and INTERNATIONAL UNION OF  
BRICKLAYERS AND ALLIED CRAFTWORKERS,

ORDER

16-cv-687-bbc

Plaintiffs,

v.

EXOTIC STONE & WOODWORKS, LLC and  
GAIL M. CORKUM,

Defendants.

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Plaintiffs filed this action under the Employee Retirement Income Security Act of 1974, seeking unpaid plan contributions and working dues. Dkt. #1. Defendant Gail Corkum filed an answer to the complaint, dkt. #6, but defendant Exotic Stone & Woodworks, LLC did not. Plaintiffs have filed a notice of voluntary dismissal without prejudice under Fed. R. Civ. P. 41(a)(1)(I) as to defendant Exotic Stone. Dkt. #11. They also have filed a motion requesting that the court dismiss the action against defendant Gail

Corkum with prejudice under Fed. R. Civ. P. 41(a)(2), and that motion is now before the court. Dkt. #10.

Rule 41(a)(2) allows a plaintiff to dismiss “an action” on “terms that the court considers proper” after a defendant has filed an answer or a motion for summary judgment. Although Rule 41(a) is not the proper procedural vehicle to drop a party from an action, Taylor v. Brown, 787 F.3d 851, 857 (7th Cir. 2015), plaintiffs are dismissing their entire case and there are no pending counterclaims.

Accordingly, IT IS ORDERED that plaintiffs’ motion to dismiss defendant Gail Corkum with prejudice under Fed. R. Civ. P. 41(a)(2), dkt. #10, is GRANTED. The clerk of court is directed to close this case.

Entered this 18th day of October, 2017.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge